

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7369**

**BILL NUMBER:** HB 1659

**NOTE PREPARED:** Jan 23, 2005

**BILL AMENDED:**

**SUBJECT:** Fax sales solicitations.

**FIRST AUTHOR:** Rep. Borror

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires the Consumer Protection Division (Division) of the Attorney General's Office (AG) to establish a list containing the telephone numbers of persons who do not wish to receive sales solicitations by fax. This bill also provides that a person may not send or cause to be sent a fax sales solicitation to a telephone number if that telephone number appears in the most current quarterly listing published by the Division. This bill provides civil remedies for violations.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** Under the bill, a person doing business in Indiana may not send or cause to be sent a facsimile sales solicitation to a telephone number that has been placed on a list. The Consumer Protection Division of the Attorney General's Office would establish, maintain, and publish a quarterly listing of subscribers who request not to receive facsimile sales solicitations, investigate complaints, and take action against violators. The bill would permit the Division to contract an agent to establish, maintain, and publish the list.

The bill requires the Division to create two fees: one charged to a person who wants to register phone number(s) on the list, and the other charged to a person who wants a copy of the list. The second fee cannot exceed the amount necessary to cover the cost of administering and enforcing the article. To the extent that the Division would establish fees to cover costs, the bill would reduce additional administrative cost.

*Background:* The Attorney General's Office estimates that about 175,000 fax numbers would be registered for the program. Under the consumer telephone privacy list (established in P.L. 189-2001), the Attorney General

reports that 1,346,454 residential phones are registered, which is equivalent to 54% of the state's total number of residential lines. In FY 2003, there were 231,092 new subscribers added to the consumer Telephone Privacy List.

The Attorney General's Office currently contracts with an outside firm to supply staffing and systems to register new telephone numbers on the consumer Telephone Privacy List. The contracting costs for FY 2002 were \$899,743, for FY 2003 were \$380,655, and for FY 2004 were \$232,312. The contracting costs are based on the number of new registrants.

Overall, the consumer telephone privacy program reports total expenditures of \$1.3 M in FY 2002, \$867,043 in FY 2003, and \$459,683 in FY 2004.

**Explanation of State Revenues:** Fee revenues collected either from a registrant or a person seeking a list would be deposited in the Telephone Solicitation Fund which was established in 2001 to administer the consumer telephone privacy list. Under current law, the Fund retains up to \$200,000 at the end of the fiscal year and reverts any excess money to the state General Fund. Under the bill, the Fund would be used to administer the facsimile list in addition to the consumer telephone solicitation list.

Additionally, the bill allows the Attorney General to obtain an injunction and/or a civil penalty of \$10,000 for the first violation, and \$25,000 for each subsequent violation. Civil penalties are deposited in the state General Fund, unless otherwise specified. Although the Attorney General does not pay court costs, a defendant may be ordered to pay these fees. Revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

*Background:* Under current law, certain telephone solicitors are required to obtain a list of consumers who have submitted their telephone numbers to the Attorney General. The Attorney General is required to establish a fee to obtain the list that does not exceed the cost of providing the listing. The current fee for a CD-ROM or computer download is \$750, and \$0.15 per page to obtain a paper copy. Persons paying the fee are entitled to four consecutive quarterly publications of the list.

The following revenues and fiscal year end balance information is available for the Telephone Solicitation Fund:

<b>Fiscal Year</b>	<b>Revenues</b>	<b>Fund Balance</b>
2002	\$1,019,595	\$420,000
2003	\$691,393	\$238,145
2004	\$453,196	\$45,239

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** If a defendant is found guilty and ordered to pay court fees, local governments would receive revenue from the following sources. The county general fund would receive 27%

of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

**State Agencies Affected:** Attorney General's Office

**Local Agencies Affected:**

**Information Sources:** Attorney General's Office; Attorney General Office's Report to the Regulatory Flexibility Committee.

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